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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 BILLY FLETCHER,

8 Plaintiff,

9 v.

10 J. DZURENDA *et al.*,

11 Defendants.

Case No. 2:18-cv-01077-RFB-VCF

ORDER

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13 Before the Court is Plaintiff's Motion for Preliminary Injunction / Temporary Restraining
14 Order. ECF Nos. 13, 14. The Court grants the motion in part for the reasons stated below.
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16 **I. PROCEDURAL BACKGROUND**

17 Plaintiff filed his complaint alleging various violations pursuant to 42 U.S.C. § 1983,
18 including a deliberate indifference to serious medical condition claim, on June 15, 2018. ECF No.
19 1. On November 7, 2019, the Court screened the complaint and allowed Plaintiff's claims to
20 proceed but dismissed certain defendants from the case. ECF No. 8. Plaintiff filed the instant
21 motion on January 21, 2010. ECF Nos. 13, 14.

22 **II. FACTS ALLEGED**

23 The Court summarizes the facts alleged in Plaintiff's Motion for Preliminary Injunction /
24 Temporary Restraining Order. Plaintiff is an inmate in the custody of the Nevada Department of
25 Corrections being held at Southern Desert Correctional Center in Indian Springs, Nevada. He has
26 high blood pressure and is supposed to have his blood pressure checked weekly and receive certain
27 medication. The medical staff at the prison have refused to follow the doctors' orders. The failure
28 of prison staff to give Plaintiff proper medication and conduct weekly blood pressure checks has

1 resulted in him suffering from migraine headaches, dizziness, nausea, kidney pains, indigestion,
2 nerve complication, and spotted and blurred vision from blackouts. He blacked out in February
3 and March of 2018 due to such failure to receive his proper medication.

4 In 2019 Plaintiff sent several medical kites to the prison medical staff but they were all
5 ignored. After months of no reply from staff, Plaintiff finally saw Dr. Candsman on December 12,
6 2019. On December 23, 2019 he blacked out again twice. He told a nurse that same day and she
7 told him to file an emergency grievance. Plaintiff filed the grievance and submitted it on 2:36 PM
8 that same day. On December 21, 2019 he put in a refill for his blood pressure medication, and he
9 received the refill on December 27, 2019. The medication inside the bottle was 60 25mg tablets of
10 Hydroxyzine Hydrochloride, which Plaintiff alleges is a sedative not used to treat high blood
11 pressure that can cause death. Plaintiff seeks an order requiring Defendants to provide him with
12 his prescribed medication for his blood pressure issues.

13 14 **III. LEGAL STANDARD**

15 The analysis for a temporary restraining order is “substantially identical” to that of a
16 preliminary injunction. Stuhlbarg Intern. Sales Co, Inc. v. John D. Brush & Co., Inc., 240 F.3d
17 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is “an extraordinary remedy that may only
18 be awarded upon a clear showing that the plaintiff is entitled to such relief.” Winter v. Natural
19 Res. Def. Council, Inc., 555 U.S. 7, 22 (2008). To obtain a preliminary injunction, a plaintiff must
20 establish four elements: “(1) a likelihood of success on the merits, (2) that the plaintiff will likely
21 suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in
22 its favor, and (4) that the public interest favors an injunction.” Wells Fargo & Co. v. ABD Ins. &
23 Fin. Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014), as amended (Mar. 11, 2014) (citing Winter,
24 555 U.S. 7, 20 (2008)). A preliminary injunction may also issue under the “serious questions”
25 test. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134 (9th Cir. 2011) (affirming the
26 continued viability of this doctrine post-Winter). According to this test, a plaintiff can obtain a
27 preliminary injunction by demonstrating “that serious questions going to the merits were raised
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1 and the balance of hardships tips sharply in the plaintiff's favor," in addition to the other Winter
2 elements. Id. at 1134-35 (citation omitted).

3 4 **IV. DISCUSSION**

5 The Court finds that Plaintiff meets the requirements for an emergency TRO/preliminary
6 injunction to issue. Plaintiff has demonstrated serious questions going to the merits of his
7 deliberate indifference to serious medical condition claim. He has shown that he is likely to face
8 irreparable harm in the form of continued fainting episodes, dizziness, nausea, and other
9 complications from the failure of prison staff to procure his medication. The Court also finds that
10 the balance of equities tips in Plaintiff's favor, and that it is in the public interest for people who
11 are incarcerated to receive adequate medical care and attention.

12 Accordingly, the Court will grant Plaintiff's motion for a temporary restraining order in
13 part and order that Plaintiff immediately receive the proper blood pressure medication that he was
14 previously prescribed. The Court finds that immediate and irreparable injury will result to Plaintiff
15 before Defendants may be heard in opposition, and so the Court will issue this TRO without prior
16 notice to the adverse party. After this order expires pursuant to Rule 65 of the Federal Rules of
17 Civil Procedure, Defendants shall be ordered to submit a response to Plaintiff's motion and submit
18 a copy of all of Plaintiff's medical records pertaining to high blood pressure.

19 20 **V. CONCLUSION**

21 **IT IS THEREFORE ORDERED** that Plaintiff's Motion for Preliminary Injunction /
22 Temporary Restraining Order (ECF Nos. 13, 14) is GRANTED in part. Defendants shall
23 immediately provide Plaintiff with his prescribed blood pressure medication and weekly blood
24 pressure check.

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1 **IT IS FURTHER ORDERED** that Defendants shall submit with this Court a response to
2 Plaintiff's motion that shall include a status update as to Defendants' compliance with this order
3 and a copy of all of Plaintiff's medical records pertaining to his high blood pressure by no later
4 than February 14, 2020.

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6 DATED this 23rd day of January, 2020.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE